

IN RE: PETITION FOR ZONING VARIANCE
NE/S McCormick Road, opposite
the end of Beaver Dam Road
(10901 McCormick Road)
8th Election District
3rd Councilmanic District
Dan Mar Partnership
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 88-496-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests variances to permit a side yard setback of 4 feet in lieu of the required 30 feet for an office building; side yard setbacks of 17 feet in lieu of the required 30 feet each for a garage; and a distance between buildings of 9 feet in lieu of the required 60 feet.

The Petitioner, by Mark Hanley, Esquire and Daniel J. Hanley, Esquire, Partners, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 10901 McCormick Road, is located at the corner of McCormick and Beaver Dam Roads and is zoned M.L.-I.M. The Petitioner recently purchased the subject property, which consists of .33 Acres, plus or minus, and is improved with an existing two-story stucco building and a one and one-half story brick garage which has existed for an extended period of time. The Petitioner now proposes to use the building for uses permitted as of right in an M.L.-I.M. zone but cannot do so without the requested variances, as the buildings do not meet current setback requirements. The Petitioner argued that it would suffer tremendous hardship if the variances were not granted; that is, the buildings cannot be used for uses permitted as of right in an M.L.-I.M. zone if strict compliance is required.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 8th
Posted for: Variance
Petitioner: Dan Mar Partnership
Location of property: NE/S McCormick Road, opposite the end of Beaver Dam Road, 10901 McCormick Rd.
Location of Signs: In front of 10901 McCormick Rd.
Remarks: S. J. Arata
Posted by: S. J. Arata
Number of Signs: 1
Date of Posting: May 17, 1988
Date of return: May 20, 1988

NOTICE OF HEARING
The Zoning Commission of Baltimore County, by authority of the Zoning Act, Chapter 100, of the Baltimore County Code, hereby gives notice that it will hold a public hearing on the application for a zoning variance for the subject property, known as 10901 McCormick Road, opposite the end of Beaver Dam Road, 10901 McCormick Road, 8th Election District, 3rd Councilmanic District, Dan Mar Partnership, Petitioner, Case No. 88-496-A, on the 19th day of May, 1988, at 9:00 o'clock, at the Zoning Commission's office, located at the County Administration Center, 10000 Old Columbia Road, Towson, Maryland 21204.

PAPERS OF MARYLAND, INC.

Md., May 12, 1988
annexed Reg. 113487 P.O. #59012
successive weeks/days previous
1988, in the

a daily newspaper published
Annapolis, Carroll County, Maryland,
a weekly newspaper published
in Baltimore County, Maryland,
a weekly newspaper published
in Baltimore County, Maryland,
PAPERS OF MARYLAND, INC.

Prior to making a determination, the Petitioner was required to submit a revised site plan, specifying the information requested by the Department of Traffic Engineering and additional information requested by the Office of Zoning. Said amended site plan, identified herein as Petitioner's Exhibit A and dated July 21, 1988, was submitted and has been made a part hereof.

The Petitioner seeks relief from Sections 255.1, 238.2 and 102.2, pursuant to Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.).

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances were granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

-2-

EXHIBIT A
TO
PURCHASE MONEY DEED OF TRUST
AND SECURITY AGREEMENT

All that piece or parcel of land situate, lying and being in the Eighth Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at the point of intersection of the east side of McCormick Road, 70 feet wide, as shown on Baltimore County Bureau of Land Acquisition Plat RW 70-155-5A which plat is recorded with a deed dated October 8, 1971 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 5229 folio 678 was conveyed by Melvin L. Jones and wife to Baltimore County, Maryland with the first recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4506 folio 345 was conveyed by Dale H. Peak and wife to Melvin Lee Jones and wife and running thence and leaving McCormick Road and running with and binding on a part of said first line and running with and binding on the second and part of the third line of said last mentioned parcel of land, the three following courses and distances viz: North 32 degrees 09 minutes East 59.77 feet, North 52 degrees 40 minutes East 178.31 feet and South 88 degrees 03 minutes West 233.42 feet to the east side of McCormick Road, 70 feet wide and thence binding on the east side of said road, Southeast by a line curving to the left having a radius of 765 feet for an arc distance of 162.49 feet to the place of beginning.

Containing 0.377 of an Acre of land more or less.

Subject to the rights of others if any in the 50 foot road mentioned in the herein referred to deed from Dale H. Peak and wife to Melvin Lee Jones and wife.

Being a part of a parcel of land with by a deed dated August 20, 1965 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4506 folio 345 was conveyed by Dale H. Peak and wife to Melvin Lee Jones and Dorothy Bosley Jones, his wife.

After due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variances requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of July, 1988 that the Petition for Zoning Variance to permit a side yard setback of 4 feet in lieu of the required 30 feet for the office building; side yard setbacks of 17 feet in lieu of the required 30 feet each for the garage; and a distance between buildings of 9 feet in lieu of the required 60 feet, in accordance with the amended site plan, identified herein as Petitioner's Exhibit A and dated July 21, 1988, be and is hereby GRANTED, subject, however, to the following restriction:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) The amended site plan, identified herein as Petitioner's Exhibit A and dated July 21, 1988, must be approved by the Department of Traffic Engineering.

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 255.1, 238.2 and 102.2 to allow a side yard setback of 4 feet in lieu of the required 30 feet for the office building; to allow side yard setbacks of 17 feet in lieu of the required 30 feet for the garage and to allow a distance between buildings of 9 feet in lieu of the required 60 feet of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I do solemnly declare and affirm, under the penalties of perjury, that I am the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.
Legal Owner(s):
(Type or Print Name)
Signature
Address
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Name
Address
City and State
Name
Address
City and State

BALTIMORE COUNTY, MARYLAND, No. 50400
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 3-24-88 ACCOUNT 801-115-000

AMOUNT \$ 1.00

RECEIVED FROM S. J. Arata

FOR Robert Hanley

VALIDATION OR SIGNATURE OF CASHIER

3) The Petitioner shall comply with the requirements of the Baltimore County Landscaping Manual as deemed applicable by the Office of Current Planning.

4) The north side of the property shall be screened in conformance with the B.C.Z.R. and the Baltimore County Landscaping Manual.

AMN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Hanley
Zoning Commissioner

July 22, 1988

Daniel J. Hanley, Esquire
Hanley & Hanley
106 Washington Avenue
P.O. Box 5506
Towson, Maryland 21204

RE: PETITION FOR ZONING VARIANCE
NE/S McCormick Road, opposite the end of Beaver Dam Road
(10901 McCormick Road)
8th Election District; 3rd Councilmanic District
Dan Mar Partnership - Petitioner
Case No. 88-496-A

Dear Mr. Hanley:

Enclosed please find the decision rendered on the above-referenced case. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

Enclosure
cc: People's Counsel

File

RE: PETITION FOR VARIANCES : BEFORE THE ZONING COMMISSIONER
NE/S McCormick Rd., opposite end
of Beaver Dam (10901 McCormick
Rd.), 8th District
DAN MAR PARTNERSHIP, Petitioner Case No. 88-496-A

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 29th day of April, 1988, a copy of the foregoing Entry of Appearance was mailed to Mr. Mark Hanley, Dan Mar Partnership, 206 Washington Ave., Towson, MD 21204, Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Date: 5-18-88

Mark Hanley, Esq.
206 Washington Avenue
Towson, Maryland 21204

Re: Petition for Zoning Variance
NES McCormick Road, opposite the end of Beaver Dam
(10901 McCormick Road)
8th Election District - 3rd Councilmanic District
Petitioner(s): Dan Mar Partnership
HEARING SCHEDULED: JUNE 3, 1988 at 9:00 a.m.

Dear Mr. Hanley:

Please be advised that \$35.57 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204, 15 minutes before your hearing is scheduled.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE: 6/3/88 ACCOUNT: 601-615-000
AMOUNT: \$ 35.57
RECEIVED FROM: Dan Mar Partnership
FOR: 6/3/88 Lining
B 0020*****055718 88-496-A
VALIDATION OR SIGNATURE OF CASHIER

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

April 13, 1988

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

HEARING SCHEDULED: JUNE 3, 1988 at 9:00 a.m.
Petition for Zoning Variance
NES McCormick Road, opposite the end of Beaver Dam
(10901 McCormick Road)
8th Election District - 3rd Councilmanic District
Petitioner(s): Dan Mar Partnership

Variance to allow a side yard setback of 4 feet in lieu of the required 10 feet for the office building; to allow side yard setbacks of 17 feet in lieu of the required 30 feet for the garage and to allow a distance between buildings of 9 feet in lieu of the required 30 feet.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
cc: Mark Hanley, Esq.
File

LAW OFFICES
HANLEY AND HANLEY
206 WASHINGTON AVENUE
P O BOX 8808
TOWSON, MARYLAND 21204
(301) 822-1174

CLAUDE A. HANLEY
1988-9-7

June 14, 1988

Ann M. Nastorowicz
Deputy Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, MD 21204

RE: Variance Hearing for Dan Mar Partnership
10901 McCormick Road
Hearing Date: June 3, 1988
Zoning Petition No.: 88-496-A

Dear Ann:

I am enclosing herein five copies of an amended site plan for the above referenced property on McCormick Road.

We have amended the site plan to conform with the requirements of Rahim Famili of the Bureau of Traffic Engineering.

I also met with Avery Harden in reference to the plan as you requested. Mr. Harden advises that the property probably qualifies for a waiver. I am enclosing herein a copy of my letter to him of this same date outlining our understanding. Accordingly, it would be appreciated if you would pass an order in accordance with your verbal intentions on the date of the hearing.

Very truly yours,

Daniel J. Hanley
Daniel J. Hanley

cc: Enclosures

RECEIVED
JUN 15 1988
ZONING OFFICE

"DUPLICATE"
CERTIFICATE OF PUBLICATION

TOWSON, MD, May 12, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on May 12, 1988

THE JEFFERSONIAN,

S. Zefke Orlum
Publisher

37.50

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:
Case number: 88-496-A
NES McCormick Road, opposite the end of Beaver Dam
(10901 McCormick Road)
8th Election District - 3rd Councilmanic District
Petitioner(s): Dan Mar Partnership
HEARING DATE: Friday, June 3, 1988 at 9:00 a.m.
Variance to allow a side yard setback of 4 feet in lieu of the required 30 feet for the office building; to allow side yard setbacks of 17 feet in lieu of the required 30 feet for the garage and to allow a distance between buildings of 9 feet in lieu of the required 30 feet.
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
5/19 May 12, 1988

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-3554

RECEIVED
JUN 2 1988
ZONING OFFICE

May 31, 1988

Mr. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Item No. 354 - ZAC - Meeting of April 5, 1988
Property Owner: Dan Mar Partnership
Location: NES McCormick Road, opposite the end of Beaver Dam Road
M.L. - I.M.

Existing Zoning:

Dear Mr. Haines:
The parking layout shown does not meet the County standards, with respect to dimensions of spaces and aisle widths, and must be revised. There are no objections to the two existing driveways, as long as there is no physical connection between them.

Some on-site and off-site vegetation should be removed to provide acceptable sight distance along Beaver Dam Road. We would appreciate being able to review revised plans prior to their being approved.

Very truly yours,

Stephen E. Haber
Stephen E. Haber, P.E.
Assistant Traffic Engineer

SEN/RF/pml-b

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this 6th day of April, 1988.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received by: James E. Dyer
Chairman, Zoning Plans
Advisory Committee
Petitioner: Dan Mar Partnership
Petitioner's Attorney

Baltimore County
Fire Department
Towson, Maryland 21204-2566
494-4500

Paul H. Heinicke
Chief

April 14, 1988

Re: Property Owner: Dan Mar Partnership

Location: NE/S McCormick Rd., opp. end of Beaver Dam Road

Item No.: 354 Zoning Agenda: Meeting of 4/5/88

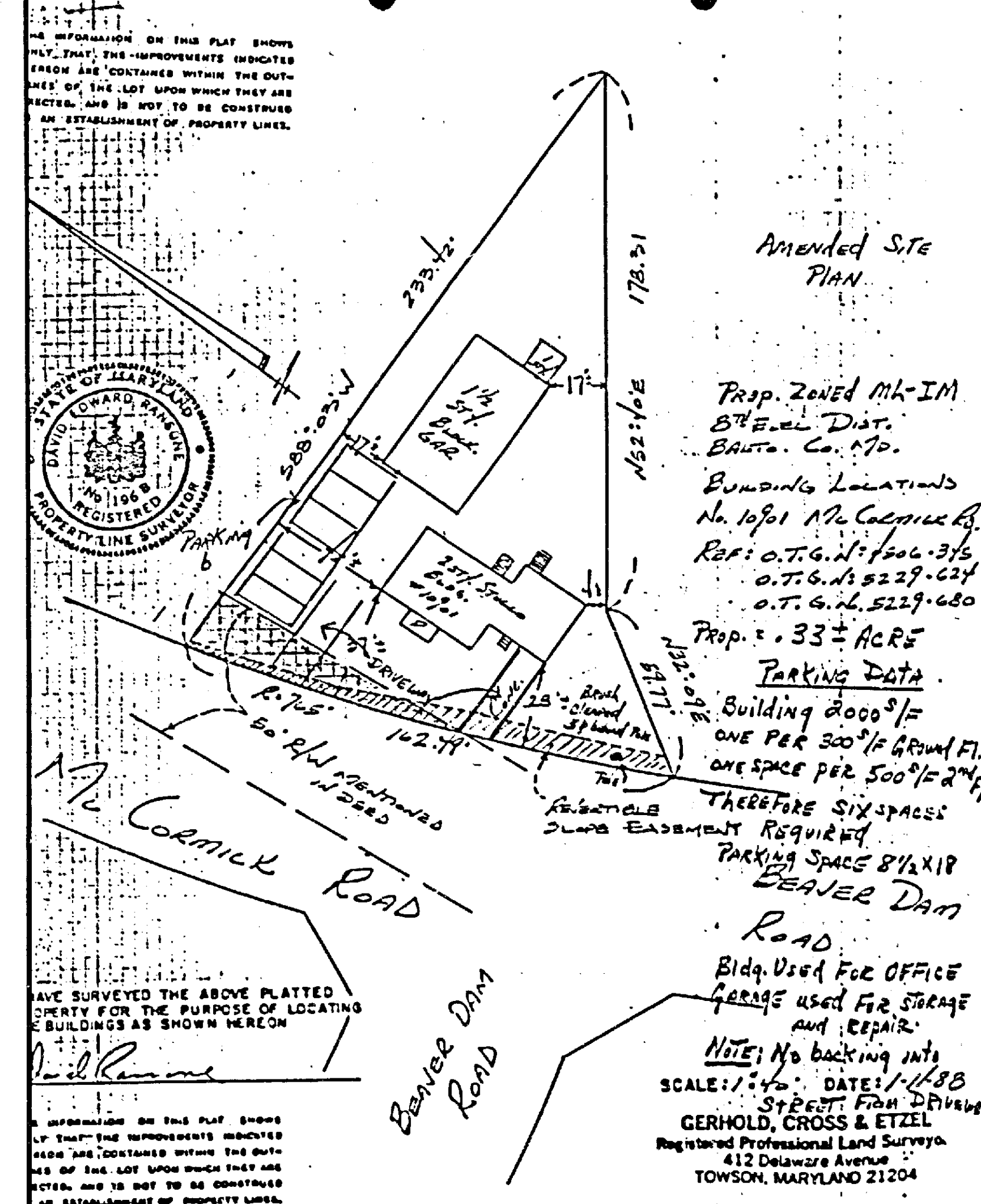
Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals of 100 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: CHD - 4/14/88 Noted and Approved: *John E. O'Neill*
Fire Prevention Bureau
Special Inspection Division

/31



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

FROM: P. David Fields, Director
Office of Planning and Zoning

SUBJECT: Zoning Petition #88-496-A

Date: May 25, 1988

In view of the fact that both of the buildings are existing, this office will not oppose the granting of the subject request. It is suggested that two points be considered, however, before rendering a decision in this case.

1. Will the proposed uses create any problems because of the irregular shape and the small size of the site?
2. In view of the fact that this 0.377 acre parcel of land was transferred from a larger property, should uses of this intensity be permitted here by granting the requested variance?

Further, could additional property be acquired to negate the need for a variance?

P. David Fields per J. Howell
P. David Fields, Director
Office of Planning and Zoning

PDF/jat
cc: Shirley Hess, People's Counsel
J. G. Hoswell
Zoning File

RECEIVED
MAY 26 1988

ZONING OFFICE

cc: Mark Hanley, Esq.
7/27/88

CP5-008

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 16, 1988

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

Mr. Mark Hanley
Dan Mar Partnership
206 Wash Avenue
Towson, Maryland 21204

RE: Item No. 354 - Case No. 88-496-A
Petitioner: Dan Mar Partnership
Petition for Zoning Variance

Dear Mr. Hanley:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

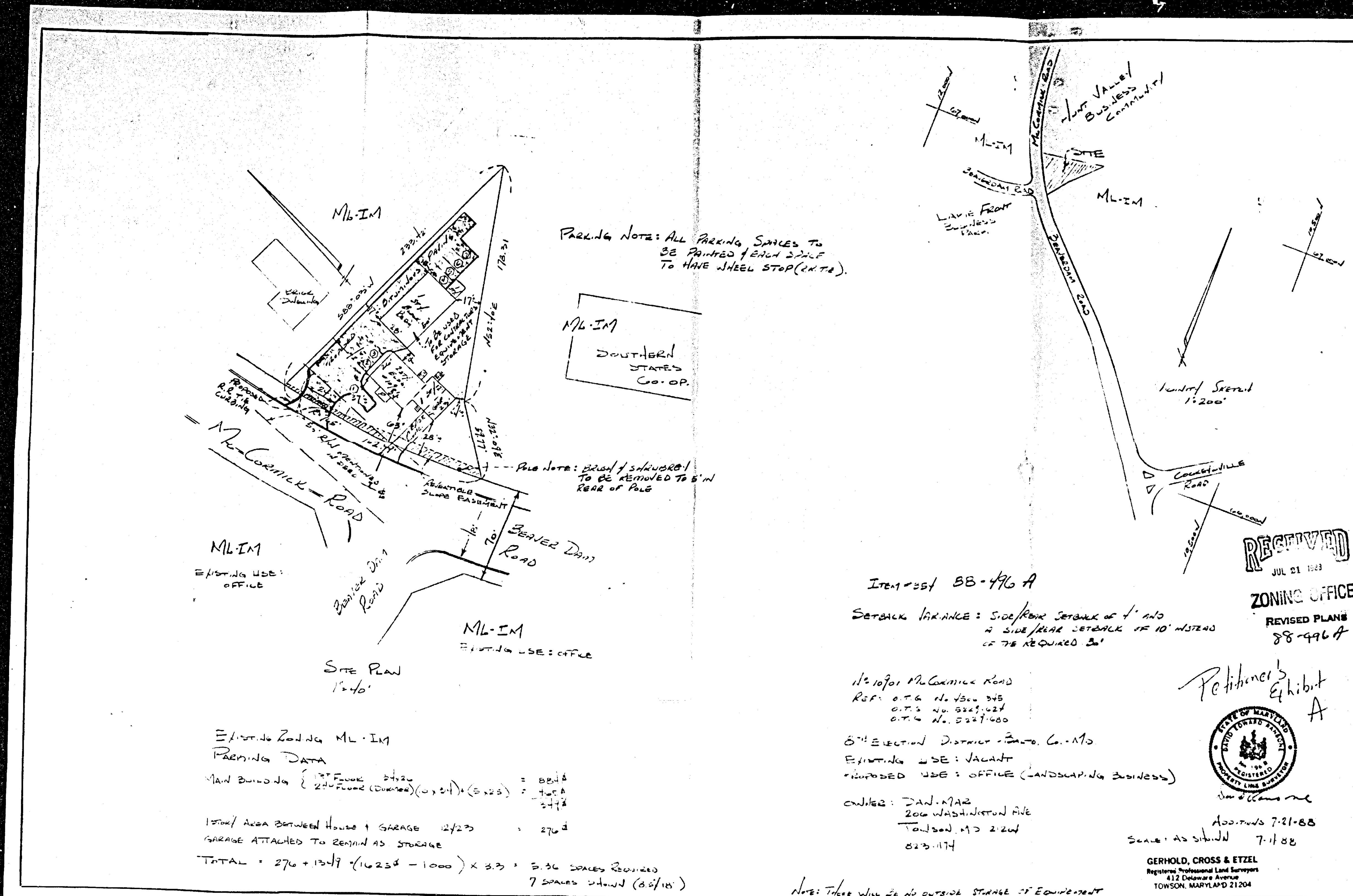
Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:dt

Enclosures



RECEIVED
JUL 21 1988

ZONING OFFICE
REVISED PLANS
88-496 A



APPROVED 7-21-88
SCALE: AS SHOWN 7-11-88